

KENTUCKY BOARD OF DENTISTRY
LAW ENFORCEMENT COMMITTEE MEETING
March 12, 2010

CALL TO ORDER

The Law Enforcement Committee meeting was called to order at 9:15 a.m. A motion was made by Dr. Boggess to go into closed session pursuant to KRS 61.810(1) (c) and (j). A motion was made by Dr. Boggess to come out of closed session. A motion to adjourn was made by Dr. Boggess. The committee meeting adjourned at 4:00 p.m.

BOARD MEETING

March 13, 2010

CALL TO ORDER

President William Boggess, D.M.D. called the meeting to order at 9:10 a.m. There was a determination of a quorum.

ROLL CALL

Board members present were: Greg Vance, D.M.D.; William Boggess, D.M.D.; Dianne Embry, R.D.H.; Susan M. King, D.M.D.; Katherine King, D.M.D.; Allan Francis and Jim Allen, D.M.D. C. Mark Fort, D.M.D and Hank Sleet, D.M.D., M.D. were not in attendance.

Staff present were Mr. Bishop K. Bishop, Executive Director; Mark Brengelman, Board Counsel; and Lisa A. Turner, Executive Staff Advisor.

VISITORS

Dr. Marquetta Poynter
Donna Ruley, R.D.H., K.B.D. Legislative Committee
Dr. Melanie Peterson, ULSD, K.B.D. Legislative Committee
Dr. John Creech, K.D.A., K.B.D. Legislative Committee

APPROVAL OF MINUTES

Dr. Vance motioned that the Minutes of the January 8, 2010 Board Meeting be approved. Dr. Katherine King seconded the motion. All were in favor.

DIRECTOR'S REPORT

Mr. Bishop gave a summary of the status of the budget for fiscal year 2010. He also reviewed the status of HB 290 (Budget Bill). The "sweeping of funds" postcards mailed out by KBD proved to have an overwhelming response with the Legislature.

Dr. Susan King made a motion to establish a KBD fund in the initial amount of \$25,000 using the revenue from fines from disciplinary actions to pay for R.A.M. events to include a contract with the Kentucky Fair Board as a location and based upon previous support from the Governor's office. Allan Francis seconded the motion. All were in favor.

Brian discussed the letters from East End Study Club complaining about the audit process.

The Board discussed *what is allowed under current law* to enforce C.E. compliance and audits.

Mr. Bishop discussed the cost of the legal services using the current contract with the Office of Attorney General with the ability to utilize the 30 day "out clause." The Board decided to evaluate the averages of hours worked per month from January through April and revisit the value to the Board of the terms of the current contract.

Allan Francis made a motion directing Mr. Bishop to continue to pursue the current track for HB 256, now an amendment to HB 258. Dr. Vance seconded the motion. All were in favor.

Should the new dental law not pass, Mr. Bishop advised that the Legislative Committee must continue to draft regulations for dental assistants under current law if the Board is to remain compliant under the implicit direction of the General Assembly under KRS 313.045. He also described the real and practical problems enforcing laboratory law as it is currently written.

COMMITTEE REPORTS

Credentials Committee

Dr. Greg Vance made motion to grant a dental license by credentials to Craig Bahr, D.M.D. and Shayna Bahr, D.M.D. Allan Francis seconded the motion. All were in favor.

Dr. Jim Allen motioned to deny the application by credentials to Dr. Frank Avason III. Dr. Kathy King seconded the motion. All were in favor.

Dr. Kathy King made motion to grant a dental license by credentials to John Click, D.D.S. Dianne Embry seconded the motion. All were in favor.

Dr. Greg Vance made motion to grant a dental license by credentials to Lynn Franks, D.M.D. Allan Francis seconded the motion. All were in favor.

Dr. Greg Vance made motion to grant a dental license by credentials to James Pledger, D.D.S. Dr. Allen seconded the motion. All were in favor.

Dr. Greg Vance made motion to grant a dental hygiene license by credentials to Kim Butler, R.D.H., Michelle Cuccinelli, R.D.H. and Jennifer Nettles, R.D.H. Dianne Embry seconded the motion. All were in favor.

Law Enforcement Committee

Dianne Embry motioned that the closed case report be accepted. Dr. Vance seconded the motion. All were in favor.

Brian Fingerson gave the Well Being Committee report and thanked everyone who attended the CAPTASA Conference.

Dr. Allen made a motion to file Notice of Hearing for case number **09-086**. Dr. Vance seconded the motion. All were in favor.

Dr. Boggess made a motion to file Notice of Hearing **09-101**. Dr. Vance seconded the motion. All were in favor.

Dr. Allen made a motion to dismiss the charges in a singularly unique and justifiable situation in case number **09-116**. Dr. Vance seconded the motion. All were in favor.

Dr. Boggess made a motion to accept the recommendations for settlement on **09-077** and **08-091 d** and **10-004** (HIV/AIDS noncompliance of ten year renewal). Mr. Francis seconded the motion. All were in favor.

10-043 Dr. Kathy King made a motion to administer a Private Admonishment to those dental licensees who passed their 2008-09 C.E. audit substantively but failed to timely remit the documentation. Dr. Vance seconded the motion. All were in favor.

10-048 Dr. Kathy King made a motion to schedule a day of Informals before the LEC to make a case-by-case evaluation for those dental licensees who were found deficient but who claim to have a true and justifiable hardship but failed to meet the requirement to petition the Board before December 31, 2009. Dianne Embry seconded the motion. All were in favor

10-045 Dr. Kathy King made a motion to file Notice of Hearing for settlement authority to consist of \$1,000 in costs and \$200 per deficient hour fine to those dental licensees who were found deficient in their hourly C.E. requirement for the years 2008-2009. Allan Francis seconded the motion. All were in favor.

10-047 Dr. Kathy King made a motion to file Notice of Hearing for settlement authority to consist of \$1,000 costs and \$200 per deficient hour fine; costs to be paid on date of signature of settlement agreement; fine to be paid no later than 90 days from the date of the Settlement Agreement, to consist of no more than three separate payments due the 1st day of the month and to include on the check the license number and which payment number out of three total written on the check. In addition, continuing education credits short shall be made up by taking the following courses from Oral Health Enrichment or another Board approved provider as follows:

Between 1-5 hours deficient must take BLOCK A: Professional Ethics and Record Keeping.

Between 6-10 hours deficient must take BLOCK B: everything in Block A plus Oral Diagnosis and Treatment Planning.

Between 11-15 hours deficient must take BLOCK C: everything in block A and B plus Treatment of the Medically Compromised Patient.

Between 16-20 must take BLOCK D: everything in A, B, and C plus Restorative Dentistry; also subject to a 5 year look-back audit.

Between 21-25: must take BLOCK E: everything in A, B, C, and D plus Periodontics; also subject to a 5 year look-back audit.

Between 26-30 must take BLOCK F: everything in A, B, C, D, and E plus Oral Pathology; also subject to a 5 year look-back audit.

Dianne Embry seconded the motion. All were in favor

10-044 Dr. King made motion to administer a Private Admonishment for first offense for those dental licensees who failed to certify in CPR or BLS by the American Red Cross or American Heart Association per 201 KAR 8:140 Section2. (1)(b) in the 2008-2009 renewal period; if second offense then \$1,000 in costs. Dianne Embry seconded the motion. All were in favor.

Dianne Embry made a motion to draft new continuing education regulation, specifically to correct inadequate language addressing C.P.R. providers. Dr. Vance seconded the motion. All were in favor.

Dr. Allen moved to rescind the above vote on case **10-044** and instead not take disciplinary action against licensees who timely completed a C.P.R. course whose standards meet or exceed those of the American Red Cross or the American Heart Association. Dianne Embry seconded the motion. Vote passed by majority.

Dianne Embry made a motion that the new regulation include acceptance of any C.P.R. provider who meets or exceeds the requirements of the American Red Cross or the American Heart Association. Dr. Allen seconded the motion. All were in favor.

Dr. Boggess made a motion to accept the recommendations for the settlement agreement through court order against denturists (practicing dentistry without a license) **05-140** Glenn Anderson and **06-050** (includes complaint 08-026) Eric Anderson and the new case **10-042**. Dr. Allen seconded the motion. All were in favor.

NEW BUSINESS

Dr. Kathy King reported on behalf of the Ad Hoc Committee their findings with regard to hygienists using lasers. The consensus was to develop a Board approved course to be taught by UKCD and ULSD which will provide for the necessary training to support the establishment of another level of certification (similar to anesthesia certification by hygienists under current law). The Committee recommended that the Board draft a statute to include a more expansive definition of dental hygiene which allows for developing the certification of the same. The Board agreed.

Dr. Kathy King, Allan Francis, Dr. Bill Boggess and Dianne Embry confirmed they would be in attendance at the Special Meeting in April at the K.D.A. Annual Meeting and agreed agenda items would be questions for the Board from those in attendance to be monitored by the President and Legislative Update on HB 256.

Dianne Embry made a motion at 12:30 to adjourn. Dr. Kathy King seconded the motion. All were in favor.

APPROVED:

William Boggess, D.M.D.
President

Dianne Embry, R.D.H.
Vice President